

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 17 and 26 are pending in the application, and also are the independent claims. Claims 1-16 and 18-25 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Claims 17 and 26 have been amended to be limited to SEQ ID NO:6. Support for the amended claims can be found throughout the specification, *inter alia*, at page 70, line 22 - page 71, line 25. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Objection to the Title

The title of the invention was objected to as allegedly not descriptive. Applicants have amended the title to be directed to methods of treatment using B7 family members. Accordingly, Applicants respectfully request that the objection be reconsidered and withdrawn.

Objections to the Drawings

Figure 4 was objected to as allegedly unclear for identification of the reference sequence. Applicants have amended the accompanying Description of Figure 4 to clarify

that mz5020.protein is the reference sequence. Therefore, Applicants respectfully request that the objection be reconsidered and withdrawn.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 17 and 26 were rejected under 35 U.S.C. § 112, second paragraph as allegedly indefinite. Not in acquiescence in the propriety of the rejection, but rather to advance prosecution, claims 17 and 26 have been amended to remove dependency to non-elected claims, and to be limited to the sequence defined by SEQ ID NO:6. Accordingly, Applicants respectfully request that the rejection be reconsidered and withdrawn.

Rejections under 35 U.S.C. § 112, first paragraph

Claims 17 and 26 were rejected under 35 U.S.C. § 112, first paragraph as allegedly not enabled. Applicants respectfully traverse the rejection as it may be applied to the amended claims.

To establish a *prima facie* case of lack of enablement, the Examiner must provide a reasonable basis for questioning the adequacy of the disclosure. (M.P.E.P. § 2106.01). Applicants respectfully assert that the Examiner has done nothing more than provide a conclusory statement that sequence homology is not an adequate predictor of protein function. While such cases may exist, the scientific literature is filled with examples where sequence homology *is* an accurate predictor of protein function. Therefore, the general comment offered by the Examiner is not sufficient to establish a *prima facie* case

of lack of enablement. Accordingly Applicants respectfully request that the rejection be reconsidered and withdrawn.

Rejections under 35 U.S.C. § 102

Claims 17 and 26 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Mikesell *et al.* (US Pat. Pub. No. 2002/0095024). Applicants respectfully traverse the rejection as it may be applied to the amended claims.

The Examiner stated that the priority provisional applications do not provide adequate support for claims 17 and 26 of this application, and therefore the claimed invention is not accorded priority benefit (Office Action, pages 3-4). However, the polypeptide sequence of SEQ ID NO:6, shown as Figure 1, is clearly described in priority application U.S. Prov. Appl. No. 60/183,578 (the '578 application), filed February 18, 2000. The '578 application also provides that "nucleic acids and proteins of the invention are important in the modulation of immune responses and so are useful in potential therapeutic applications. . . ." (the '578 application at page 3). Lastly, the '578 application provides that the nucleic acids and proteins "are further useful in the generation of antibodies that bind immunospecifically to the novel substances of the invention for use in therapeutic or diagnostic methods." (*Id.*) Therefore, Applicants respectfully assert that the '578 application clearly provides support for claims 17 and 26, and further, that one of ordinary skill in the art would be able to practice the claimed invention using this description. Accordingly, Applicants respectfully request that the rejection be reconsidered and withdrawn.

Other matters

The Examiner has made note of the use of trademarks in the present application (Office Action, page 4). Items identified as trademarks, either by application or registration, have been identified appropriately.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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